



**Affordable and Special Needs Housing  
Program Guidelines  
2015-16**

**Application Due Dates:  
November 30, 2015  
May 31, 2016**

## Purpose

The Affordable Housing and Special Needs (ASNH) Program's goals are to create and preserve affordable housing units within the Commonwealth of Virginia with an emphasis on non-entitlement areas. The program achieves these goals by providing assistance in the form of financing to projects that will meet local affordable housing needs and support state housing policy.

This document is intended to provide guidance only. For more detailed information and for questions outside the scope of the guidelines please contact DHCD:

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## Background

This program is funded through the federal *HOME Investment Partnerships Program* (HOME). This federal funding was created through the National Affordable Housing Act of 1990. Funds from the HOME program are made available annually through formula allocations to states and local governments (***Participating Jurisdictions*** or PJs).

PJs are responsible for conducting needs assessments and establishing priorities and goals, and developing and managing the programs that will help meet these goals. The Affordable and Special Needs Housing Program is one of the Commonwealth's HOME programs.

Through the ASNH Program, DHCD fills gaps in financing to make possible the creation and preservation of affordable housing for low income Virginians and low income Virginians with special needs. While these programs are statewide the program gives priority to projects located in areas not receiving a direct federal HOME allocation through a local PJ or HOME Consortium.

Through a competitive quarterly funding process housing developers, non-profits, and state-certified Community Housing Development Organizations (CHDOs) submit project applications or proposals. Project proposals are evaluated through a competitive process to determine which best meet critical affordable housing needs within the Commonwealth. Funding offers are made to the highest scoring proposals.

While the ASNH program is open to all eligible applicants, state-certified CHDO status will be given preference for ASNH funding. CHDOs may also be eligible for operating assistance. See DHCD's online resources for more information on [CHDO requirements](#).

## Application Process

Approximately 5.1 million dollars in HOME funds will be made available during the 2015 – 2016 program year to assist affordable housing projects selected through the ASNH program application process. Applications will be accepted twice during the program year. Approximately half of the available funds will be allocated through the first round of applications due November 30, 2015. Any funding not obligated as a result of the first round will be allocated through a subsequent round with applications due by May 31, 2016.

Developers may submit project applications to DHCD for consideration on or before the established deadlines. All applications received by the deadline will be reviewed against established criteria to identify those projects best positioned to meet priority housing needs within Virginia. Applicants have the opportunity to receive a debriefing on unsuccessful applications.

All applications for funding must be submitted to DHCD through the online application and project management system called [CAMS](#) (Centralized Application and Management System). Please allow for up to two business days for responses to any CAMS help desk request. Applications must be submitted in CAMS by 11:59 PM by the deadline as follows:

- November 30, 2015
- May 31, 2016

Please note that DHCD technical assistance is limited to normal business hours.

Applications must meet minimum requirements including scoring at least 60 points in order to be considered for funding. Scoring criteria are as follows:

- Meeting local housing needs (40 percent);
- Project feasibility (30 percent); and
- Development team's capacity (30 percent) to successfully complete the proposed project.

Beginning activities, prior to receiving approval from DHCD will jeopardize the ASNH conditional offer.

An environmental review is required before DHCD can execute any HOME Program agreement. It is essential that developers **not proceed** with any project activity (e.g., acquisition, rehabilitation, demolition, construction, etc.) prior to the execution of the HOME program agreement lest the project be rendered ineligible for HOME funding. Applicants must allow sufficient time to complete and forward all required environmental documentation to DHCD.

#### *Preliminary Qualification Letter*

Project applications selected through the ASNH application process will receive notification in writing that their project has met initial thresholds criteria to preliminarily qualify the project. The preliminary qualification period expires in one year from the date of the letter.

#### *HOME Project Management Conference*

Developers must meet with DHCD program staff to review HOME program and project requirements prior to the issuance of a HOME program agreement. DHCD will take the initiative to schedule the conferences as appropriate.

#### *HOME Program Agreement*

Applicants who have received a prequalification letter must finalize and execute a HOME program agreement including meeting federal requirements prior to the expiration of the preliminary qualification period. The HOME program agreements expire two years from the

execution date of the agreement. A six-month extension to the HOME program agreement may be granted by DHCD in specific circumstances. Written request for extensions must be received by DHCD prior to expiration of the agreement. Please note developers cannot proceed with any project activities prior to the execution of the HOME program agreement and that doing so will render the project ineligible.

#### *Loan Commitment*

A program agreement must be in effect in order to receive a formal loan commitment (deferred loan agreement for Homebuyer projects). Loan commitments expire after 12 months.

Additional information on the ASNH application process can be found in the Application Instructions and at the How to Apply Workshop.

#### **Eligible Virginia Localities**

DHCD operates the ASNH program as a statewide program, thus projects located in any Virginia locality are allowable.

DHCD gives scoring preferences to projects in localities that do not receive direct HOME allocations. These are localities that are not HUD participating jurisdictions (PJs) or members of HOME consortiums.

There is a **local match requirement** for all projects located in areas receiving a HOME allocation directly from the federal government. These localities are HOME entitlement areas or member jurisdictions of a HOME consortium. Projects proposed in these areas must have a local match for at least 25 percent of the total HOME Affordable Housing and Special Needs Housing Program loan request. Local match can include CDBG, HOME or other federal or state funds that are administered by the local government. This match can also be met based on the waiver of locally collected fees directly associated with the specific development (e.g., water and sewer connection fees). Documentation of local match must be included in the application.

<b>HOME Entitlements and Consortiums – 25 percent Match Required</b>	
<b>Winchester Consortium – including:</b>	<b>Alexandria</b>
Winchester	<b>Chesapeake</b>
Fredrick County	<b>Danville</b>
Page County	<b>Hampton</b>
Clarke County	<b>Lynchburg</b>
Warren County	<b>Newport News</b>
Shenandoah County	<b>Norfolk</b>
<b>Charlottesville Consortium - including</b>	<b>Portsmouth</b>
Charlottesville	<b>Richmond</b>
Albemarle County	<b>Roanoke City</b>
Fluvanna County	<b>Virginia Beach</b>
Greene County	<b>Arlington County</b>

Louisa County	<b>Chesterfield County</b>
Nelson County	<b>Fairfax County</b> -including
<b>New River Consortium</b> – including	Fairfax City
Radford	Falls Church
Giles County	<b>Henrico County</b>
Montgomery County	<b>Prince William County</b> –including
Pulaski County	Manassas
Blacksburg	Manassas Park
Christiansburg	Bristol City (member of Tennessee consortium)
<b>Suffolk Consortium</b> –including	
Suffolk	
Isle of Wight	
Franklin City	
Southampton	

### Eligible Applicants

Eligible applicants are non-profit organizations or for-profit housing developers, state-certified Community Housing Development Organizations (CHDOs), and public housing authorities seeking to develop affordable housing projects in Virginia.

The applicant (CAMS organizational profile) must be the owner, developer, or sponsor of the proposed project:

- Owner – holds valid legal title to, or long term leasehold interest in the property
- Developer – owns the property and is developing the project, or has a contractual obligation to develop the project
- Sponsor –is the owner or partial owner and agrees to convey ownership to a second non-profit at a predetermined time prior to or during development or upon completion (requires consultation with DHCD prior to application)

Applicants, the organization that submits the ASNH application, must have a registered CAMS profile in order to apply. **Please note, that the applications must be submitted by the primary partner in the project not the project Limited Liability Corporation (L.L.C.).** The applicant is the entity responsible for long-term operations and compliance. Applications will not be accepted from the project legal entity or limited liability corporation. Please contact DHCD if you have any questions.

DHCD will not enter into program agreements with any applicant with outstanding audit findings, IRS findings, DHCD monitoring findings or other compliance issues. Please note that DHCD will work with all interested parties to resolve any findings or compliance issues, where appropriate.

DHCD must verify project partner capacity and roles when evaluating applications and project feasibility. Applicants must be able to clearly articulate the relationship between all partners involved in the development, ownership, and property management of a project.

### **Type of Assistance**

Assistance received through the ASNH program is gap financing - after all other financial commitments are received HOME funds are leveraged to close a financing gap in the affordable housing project. The amount of HOME funds committed must be the minimum amount needed.

All rental project applications must assume permanent financing structured as a three percent interest-only deferred payment loan over the full affordability period of time (15 or 20 years).

Homebuyer projects are typically structured as construction financing. Construction draws are based on specific project completion milestones.

Per project funding limits are as follows:

<i>ASNH Funding Limits</i>	
<i>Project Type*</i>	<i>Maximum</i>
Affordable Housing Projects	\$500,000
Special Needs/Extremely Low-Income *	\$700,000

*\*See the Eligible Projects section for more details.*

DHCD reserves the right to charge DHCD incurred projects costs to the project. These costs include only actual applicable project costs such as environmental review notices and legal services.

DHCD incurred costs are structured as a grant. This grant amount is included in the total amount of project assistance. The total ASHN project assistance is reflected in the restrictive deed, the program agreement, underwriting, and subsidy layering analysis.

Program requirements including the number of required HOME units are based on total amount of HOME assistance (including total ASHN assistance and HOME from other sources) as compared to the total development costs. Please note that for this purpose development costs are limited to HOME eligible costs and must exclude non-HOME eligible costs such as community buildings, market rate units, and retail space.

Please note that match requirements, if applicable, apply to the total ASNH loan amount only.

### **Affordability Period**

Any time funds are committed to a project it results in a mandatory ***affordability period*** on the property. This is the period of time that the unit or units must be maintained as affordable according to the agreement between the developer and DHCD. This affordability period is enforced through a restrictive covenant deed on the property. The affordability period is based on the type of project and the total amount of HOME assistance including both developer subsidies and homeownership assistance from all HOME sources including both

state HOME funds and local PJ or Consortium HOME funds. The required type and number of HOME units will be determined by DHCD during underwriting.

<b>Affordability Requirements</b>	
<b>Assistance per Unit</b>	<b>Length of Affordability/Compliance Period</b>
Homebuyer less than \$15,000	5 years
Homebuyer \$15,000 to \$40,000	10 years
Homebuyer more than \$40,000	15 years
Rental Rehabilitation	15 years
Rental New Construction	20 years

### **Long-Term Compliance (Rental Projects)**

Projects will be inspected for property standards and HOME program compliance within 12 months of project completion. Projects will be inspected thereafter no less than every three years. All rental projects must submit annual rent and occupancy reports and project financials. Onsite inspections and monitoring frequencies are based on performance and risk assessments.

Rental projects must meet HOME program rent, occupancy, and property standards and other applicable federal requirements for the duration of the affordability period in accordance with the HOME program agreement. Additional HOME program investments cannot occur during this time period. Projects unable to meet these requirements or projects at-risk of non-compliance may be required to submit to more frequent monitoring, to change property management, and/or transfer ownership.

### **Long-Term Compliance (Homebuyer Projects)**

#### **Resale Requirement: (Homebuyer Developer Subsidy Only)**

Homebuyer HOME-assisted units structured as only developer subsidy are subject to a resale provision. In these cases a resale provision applies where units must be resold to an income eligible homebuyer if within the applicable affordability period. The developer must monitor sales, foreclosures, and transfers titles to assure affordability requirements. The developer must ensure that resale requirements are imposed if the housing does not continue to be the principal residence of the occupant or family for the duration of the period of affordability, and must also ensure that the housing is only made available for subsequent purchase to a buyer whose family household qualifies as a low-income family and will use the property as its principal residence. The resale requirement must also ensure that the price at resale provides the original HOME-assisted owner a fair return on investment (including the homeowner's investment and any capital improvement) and ensure that the housing will remain affordable to a reasonable range of qualified low-income homebuyers. The period of affordability is based on the total amount of HOME funds invested in the housing.

A "*fair return on investment*" is determined by the resale price that takes into account a return of the initial homebuyer's initial investment plus any capital improvements made to the housing unit, which are typically set or limited based on changes in area median sales price. These factors typically establish the fair market value for the city or county that the property is located. The intent is to provide a fair return to the seller while limiting price based solely on the Median Sales Price to a potential buyer. To determine a "*a fair return on investment*", the

ASNH Program will measure the percentage change in median sales prices over the period of ownership as a reasonable index that is directly related to real estate prices in the area which will simplify the resale approach by taking both market appreciation and depreciation into account. It is important to note that in certain circumstances, such as a declining housing market where home values are depreciating, the original homebuyer may not receive a return on his or her investment because the home sold for less or the same price as the original purchase price. DHCD 's intent is to set a resale price that provides a fair return to the original homebuyer while ensuring that the property is affordable to the targeting population, thus reducing the need for additional subsidies to eligible buyers.

A *capital improvement* is any addition or alteration to real property that meets the following conditions:

- It substantially adds to the value of the real property, or appreciably prolongs the useful life of the real property; and
- It becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself.

The value of any capital improvement will be determined by the national average increase in value that a specific type of improvement brings at sale. For example, if homeowner's downpayment = \$5000, value of capital improvements = \$9000 and the percentage change of median sales price over ownership period = 3.5%, then, fair return on investment =  $(\$5000 + \$9000) \times 3.5\% = \$490$ . In this example, the total return to original homebuyer at sale = \$14,490 (\$5000 + \$9000 + \$490).

A "*reasonable range of low-income buyers*" is defined in the ASNH Program as a household or family at or below 80 percent of Area Median Income paying no more than 30 percent of income for principal, interest, property taxes, and insurance.

DHCD will use deed restrictions, covenants running with the land, or other similar mechanisms as the mechanism to impose the resale **and continued affordability** requirements as outlined in §92.254(a)(5)(i)(A) of the HOME Rule. The developer may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before any conveyance to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, obtains an ownership interest in the housing.

#### Recapture Provision: Direct Buyer Assistance

ASNH Homebuyer HOME-assisted units including DHCD HOME Down Payment Assistance (DPA) direct buyer assistance are subject to a recapture provision in order to assure that the units either remain affordable (i.e., housing eligible clients) or that DHCD recovers its investment based on the terms of the agreement. Recapture applies and the amount to be recaptured is limited to the amount of direct buyer assistance (not the developer subsidy).

Virginia will use the recapture provision at §92.254(a)(5)(ii)1)- to recapture the entire amount. The total original amount of the direct buyer assistance is recaptured from the net proceeds in the case of sale, refinance (see exception below), foreclosure or failure to maintain as primary residency prior to the end of the affordability period. In these cases the



required amount returned (total assistance amount from net proceeds) is due and payable in full to DHCD to the Treasurer of Virginia. The HOME assistance may not be subordinated to refinancing of the first lien position primary mortgage or an equity loan or line of credit during the period of affordability except under special hardship conditions at DHCD's discretion. Affordability requirements are secured by a Restricted Deed of Covenant in the amount of direct assistance. The HOME loan is forgiven in full at the end of the affordability period.

### **Developer Requirements**

Federal regulations require DHCD to certify developer capacity (including CHDOs) prior to the commitment of HOME funds. Developer capacity requirements include:

- Experience developing similar projects
- Staff with development experience (excludes consultants, contractors or partners)
- Current financial soundness

DHCD must confirm at application that the CHDO meets CHDO organizational and mission requirements. These include:

- Nonprofit status
- Primary mission provision of affordable housing
- Board composition meets HUD requirements
- Independence in decision making authority
- Community based organization

CHDOs with existing ASNH projects must confirm at any subsequent ASNH application that the CHDO continues to meet these organizational and mission requirements. Documentation of CHDO compliance must be uploaded and maintained in CAMS.

Please note, CHDOs receive funding preference for the ASNH program. Any organization that meets the CHDO requirements may apply for this status by uploading documentation of organizational and mission requirements in CAMS. Please see [CHDO Survival Kit](#) and [CHDO Capacity Self-Assessment Tool](#) for more details or contact Luke Tate at (804) 225 – 3128 or [luke.tate@dhcd.virginia.gov](mailto:luke.tate@dhcd.virginia.gov).

CHDOs must also meet financial management and capacity requirements. These include:

- Conformance to accounting standards
- No individual benefit
- Demonstrated capacity to develop affordable housing

CHDO requirements must be met at the time of fund commitment, for the duration of the development phase, and through the long-term compliance period for CHDO's in the role of project/property owner. Please see [CHDO Survival Kit](#) and [CHDO Capacity Self-Assessment Tool](#) for more details.

### **Eligible Projects**

Eligible projects produce or preserve affordable housing units for low income homeowners or low income renters. Projects must include a minimum of five units and must be under common ownership, management, and financing. The minimum total investment (total development costs) per unit is at least \$15,000 or includes replacement of at least three out of five major systems (e.g., HVAC, plumbing, roofing, electrical) but is no more than the

actual costs or the **221 (d)(3) limit**. Selected projects will always be assisted with the minimum amount of HOME assistance needed.

When HOME funds are invested in a project the total HOME assistance is limited to the 221 (d) (3) HOME maximum per unit subsidy limits:

Bedrooms	Limits
0	\$132,814
1	\$152,251
2	\$185,136
3	\$239,506
4+	\$262,903

A project must be either a rental project or a homebuyer project (not both). In either case these projects must have units that target income eligible households. Homebuyer projects require at least five units targeting 80 percent or below AMI. Rental projects require at least five units that will target 60 percent or below AMI (at least 20 percent of HOME-assisted units must target 50 percent or below). Please note that project applications designed to provide a greater proportion of lower income targeting will be given scoring preference on the *need* criteria. The actual number of HOME units and income mix will be determined by DHCD during underwriting.

Projects must meet local market needs based on vacancy rates for similar projects in the area and gaps in affordable housing. DHCD must evaluate and certify that the project will meet local needs based on a market analysis.

Both new construction and substantial rehabilitation projects are eligible. Development activity beyond the original footprint will be considered new construction. In either case, construction and property standards (DHCD's [Minimum Design, Construction, and Rehab Requirements](#)) must be met to assure that no further investment is required for the 15 year (rehabilitation) or 20 year (new construction) affordability period.

The ASNH assistance may not be used for acquisition-only projects, public housing or public facilities including emergency shelter, group homes, hospitals, nursing homes, or intermediate care or assisted living facilities. In addition assistance is prohibited in any project with any prior HOME assistance from any source where the project is in the HOME affordability period.

Eligible property types include multi-unit structures, single family, two- to-four unit structures, and manufactured homes. Regardless of type the units must be considered modest relative to the neighborhood.

All assisted projects should be located where possible in areas that decrease the overall concentration of poverty and minorities. **Local government review is required on the site and neighborhood standards.** This is the approval that a project:

- Is located on adequate and accessible site
- Furthers compliance with fair housing laws

- Is on a site that is:
  - Not in minority concentration or mixed racially area OR
  - In racial mixed area but will not increase the minority concentration OR
  - In area of minority concentration but:
    - Sufficient comparable opportunities exist outside of the for minorities OR
    - Necessary to meet overriding housing need that cannot otherwise be met (integral to preservation strategy OR integral to revitalizing area strategy)
- Promotes greater choice of housing opportunities and avoid undue concentration of assisted persons
- Is in a neighborhood that is not detrimental to family life
- Is in a location with comparable access to services and facilities
- Is in a location where travel/access to jobs is not excessive (not applicable to elderly housing)

Development costs are limited to HOME eligible costs and must exclude non-HOME eligible costs such as community buildings, market rate units, and retail space. Mixed income and multiple-use projects are eligible; however these projects must contain HOME units that will meet income and rent or sales value requirements. Please note that program requirements including the number of required HOME units are based on total amount of HOME assistance (including HOME from other resources) as compared to the total development costs.

Scattered site projects are allowable, but all projects must be under common ownership, management, and financing.

Projects may also include units structured as Single Room Occupancy (SRO) units. These are single-room dwellings that are the primary residence of its occupant or occupants. The unit must contain food preparation and/or sanitary facilities. If the unit does not contain food preparation or sanitary facilities, then the building must contain and provide access to these.

Projects may include one or more units of supportive housing, permanent supportive housing, housing targeting formerly homeless, formerly homeless or disabled veterans, disabled households, or elderly individuals. Please note that compliance with fair housing always applies, tenants must have a lease in their name, and participation in services may not be required. Also note that project applications are evaluated based, in part, on the need the project seeks to address.

Scoring preference and higher maximum funding limits (up to \$700,000 per project) are given to projects targeting special needs or extremely low-income households.

### *Special Needs Projects*

These are projects that are specifically targeting at least 20 percent of the total units to households with disabilities. Special needs households include at least one individual with a disability (physical, sensory, mental, developmental, or intellectual). The targeting of special needs must be reflected in the tenant selection plan for rental projects. Please note that elderly housing does not necessarily qualify as special needs housing, but elderly housing explicitly targeting at least 20 percent of the total units to households with disabilities would

qualify as special needs housing. In addition special preference will be giving to projects that will target units to [Department of Justice Settlement](#) population.

Please note that DHCD wishes to promote the development of units targeted to meeting the needs of special needs households by both giving scoring preferences to projects that exceed minimum accessibility requirements and those that target units specifically to special needs household. Although DHCD gives scoring preference for targeted special needs housing, applications identifying mixed or integrated affordable housing projects are encouraged.

#### *Extremely Low-Income Projects*

These are projects that are specifically targeting at least 20 percent of the total units to extremely low-income (at or below 30 percent AMI) households. The targeting of extremely low-income must be reflected in the tenant selection plan.

Projects including Green Building standards are encouraged. Score preference will be given to projects that will be Earthcraft or LEED certified.

The [Fair Housing Act](#) prohibits discrimination in the sale or rental of housing based race, color, religion, sex, national origin, handicap or familial status. This prohibition applies to all projects assisted with the ASNH program. Project that discriminate or are structured to discriminate are ineligible.

[Lead Safe Housing](#) policies apply to ASNH projects. Please note that some projects may be exempt. For all other projects appropriate measures must be taken to assure that:

- Rehabilitation or demolition activities meet lead safe requirements;
- Development costs include associated costs;
- Homebuyers or tenants will receive notification (if applicable);
- Operating costs include ongoing associated maintenance costs for rental projects; and
- Records are maintained to document all measures taking.

[Environmental](#) measures apply to ASNH projects. Please note that some projects may be exempt. All other projects will require an environmental assessment. This must be completed, reviewed, and approved by DHCD. The process requires public notifications and a HUD release funding request. No development activity including the acquisition of the property can occur prior to the release of funds. Any project where development activity has occurred prior to the release of funds is ineligible.

Local/state coordination of the environmental review will be required for any project combining ASNH (HOME) funds local HOME or Community Development Block Grant (CDBG) funds.

The [Uniform Relocation Act](#) (URA) applies to all projects where development activity will result in the permanent or temporary dislocation of households, businesses, farms and nonprofit organizations. When permanent or temporary dislocation is possible, a notice of the intent and a survey of the occupants must be conducted prior to the ASNH application. The application must include a completed URA supplemental form and documentation of the

notice and survey results. Development costs must reflect any associated costs that the project anticipates.

[Section 3](#) requirements apply to all ASNH-assisted projects. These requirements mean that development generated opportunities must be designed to benefit to the greatest degree possible low and very low income persons in the project services area and the business that employ them. Developer hiring, contracting, and subcontracting must be structured to maximize this benefit. Project owner/developers are required to adopt specific goals, develop a Section 3 plan, and comply with required notifications, documentation, and reporting.

[Labor Standards](#) apply to all projects. All projects must assure that workers receive “overtime” compensation at a rate of 1.5 times their basic rate of pay for all hours worked in excess of 40 hours a work week. This applies to all project associated construction contracts funding in whole or in part with HOME (ASNH) funds. All projects with 12 or more HOME-assisted units (determined in underwriting by DHCD) must meet Davis-Bacon Act and the Copeland “Anti-Kickback” Act requirements. Please note that the number of units required is based, in part, of the proportion of HOME funds to the total development costs. In these cases, Davis-Bacon prevailing wages must be paid to workers at least weekly without any deductions or rebates except permissible deductions. Reporting requirements include the payroll submissions.

### **CAMS Requirements**

Each developer/project sponsor is required to meet project management and reporting requirements in [CAMS](#). This is DHCD’s Centralized Application and Management System. Applications for ASNH funding must be received in CAMS. Once a project is selected the project developer/sponsor will be required to submit project documentation to include for example Section 3 reports and quarterly progress reports. Please note, that it is the responsibility of the project developer/sponsor to login to CAMS on a regular basis. CAMS will be the record for any project funded through the ASNH program. Preliminary qualifications letters, HOME program agreements, inspections reports, and other project documentation will all be maintained in CAMS.

### **Eligible Costs**

Regardless of the form that ASNH assistance takes (permanent financing for rental projects or construction draws for homebuyer projects) all HOME funded development costs must be allowable:

Specifically the following costs are allowable:

- *Demolition costs* are eligible costs, however construction must begin within 12 months
- Construction, labor, and materials
- Project development related costs (e.g., financing fees, legal fees, affirmative action marketing)
- Up to 18 months rental project operating deficit reserve
- Relocation (can pay for relocation costs for any household in HOME project as a part of the overall project development costs)

The following are ineligible costs:

- HOME investments not resulting in HOME eligible units

- Project reserves other than the rental operating (listed above)
- Operating reserves (rental) are limited to 18 months - operating reserves beyond 18 months are ineligible
- This assistance cannot be used for the development, operation, or modernization of any public housing
- Project-based rental assistance is a prohibited expense
- Delinquent taxes, fees, charges cannot be paid with HOME funding
- Items not allowed under A-87, A-110, and A-122 or not deemed cost reasonable (see the *Resources and References* section for more details)

### **Income Eligibility**

The number of HOME-assisted units in a project will be determined during underwriting. These units will be limited to income eligible households based on Area Median Incomes (AMI). Income calculations must be based on HUD's Section 8 income eligibility standard. Projects must be able to provide a set number of HOME-assisted units.

All HOME-assisted homebuyer units must be at or below 80 percent AMI at the time that program eligibility is determined. Eligibility determination expires after six months. If closing does not occur during the six month timeframe, then income eligibility must be re-established.

All HOME-assisted rental units must be at or below 60 percent AMI at initial occupancy. The number of units and/or specific units will be determined during underwriting. At least 20 percent of these units will be limited to 50 percent or below AMI.

### **Rental Projects**

Project development teams must attend a HOME project management conference based on a DHCD determined schedule. . A HOME program agreement must be executed within a year of the date of notification of the preliminary qualification of the project. This means that underwriting has been completed and all funding contingencies are resolved including the environmental review and release of funds. Please note, once the HOME program agreement is executed any cost changes and/or changes in financing must be communicated in writing to and approved by DHCD. Changes will be reviewed and adjustments made to the underwriting analysis and program agreement as applicable.

While final cost certification and completion reports are required at closing, progress reports are required quarterly on each project during the development phase. Regular construction inspections will be conducted to verify progress.

Affordability periods begin once HOME completion reports (including lease up data) are submitted and approved by DHCD. Lease up documentation as well as all inspection documents must be submitted to DHCD in order to close the development phase of the project, to assure eligibility of the developer for funding of future projects, and to begin the affordability period. Non-compliance could suspend eligibility for additional HOME funds and could result in the repayment of all HOME funds to DHCD.

The actual amount of assistance in any project must be the minimum amount needed to produce or preserve an affordable housing unit. All assisted rental projects have 15 – 20

year affordability periods based on the type of development (15 years for rehabilitation and 20 years for new construction).

Based on the HOME investment the project will require a set number of HOME-assisted units. This is based on the proportion of total HOME funds in the project compared to the total development costs. Total development costs must exclude non-HOME eligible costs.

HOME-assisted units have income and rent restrictions. HOME-assisted units are limited to 50 or 60 percent AMI at initial occupancy. Rents for the units are restricted to the Low or High HOME rents for the area. Rents cannot exceed the HOME rents, with the exception of project-based rental assistance. Please see the [Compliance in HOME Rental Projects: Guide for Property Owners](#) and [HOME Rental Compliance Training](#) for more detail on income and rent requirements. Rent increases over those proposed in the project application must be approved by DHCD. Please note, initial and annual certification of income is required.

During the affordability period each project will be required to submit annual rent and occupancy reports and project financials. DHCD will verify through onsite monitoring compliance with rent, occupancy, property standards, and other programmatic requirements.

[Section 504](#) applies to all ASNH assisted rental projects. Section 504 applies to certain new construction and rehabilitation projects, as follows:

#### *New Construction*

New construction of multifamily rental housing with five or more units must be designed and constructed to be readily accessible to and usable by persons with disabilities. The common areas in the building must be made accessible, as well as a certain number of units:

- A minimum of five percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments.
- An additional two percent of the dwelling units (but not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments).

#### *Rehabilitation: Substantial alterations*

Multifamily rental projects of fifteen units or more that undergo “substantial alterations” must also comply with Section 504’s accessibility requirements. Rehabilitation activities are considered “substantial alterations” when the costs of rehabilitation will be 75 percent or more of the replacement cost of the completed facility. For these projects, again, the common spaces must be made accessible as well as the same number of units required for new construction:

- A minimum of five percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments.
- An additional two percent, at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.

The requirements for multifamily projects undergoing substantial alterations are found at 24 CFR 8.23(a).



### *Rehabilitation: Other Alterations*

For rehabilitation of multifamily rental projects that do not meet the definition of substantial alterations, the alterations that are made must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with mobility impairments. Further, if alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible to persons with mobility impairments. (This would include alterations that involve certain kitchen and bathroom renovations, as well as entrance door jamb replacements.) In addition, alterations to common spaces must make those areas accessible, to the maximum extent feasible.

When a minimum of five percent of the dwelling units (but not less than one unit) are accessible to people with mobility impairments, no additional units are required to be made accessible. For this category of rehabilitation, there is no requirement to make any units accessible to individuals with sensory impairments.

A recipient is not required to make these accessibility alterations if doing so would impose undue financial **and** administrative burdens on the operation of the multifamily housing project (24 CFR 8.23(b)).

### **Homebuyer Projects**

Please note, homebuyer units will automatically convert to HOME rental units if there is no ratified sales contract at nine months after the completion of construction (date of the Certificate of Occupancy). These projects are targeted to income eligible first-time homebuyers.

Project development teams must attend a HOME project management conference based on a DHCD determined schedule. A HOME program agreement must be executed within a year of the date of notification of the preliminary qualification of the project. This means that underwriting has been completed and all funding contingencies are resolved including the environmental review and release of funds. Please note, once the HOME program agreement is executed any cost changes and/or changes in financing must be communicated in writing to and approved by DHCD. Changes will be reviewed and adjustments made to the underwriting analysis and program agreement as applicable. A deferred loan commitment will be issued once a HOME program agreement has been executed to expire in one year from the date issued.

The project is complete when the last HOME unit has closed and lien documentation and completion reports have been submitted and approved by DHCD. Please note that the length of each individual unit affordability period is based on the total amount of HOME assistance in the particular unit and that the affordability period begins once closing and sale completion documentation has been submitted and approved by DHCD. Please see the Homebuyer recapture and resale section for more details. Non-compliance could suspend eligibility for additional HOME funds and could result in the repayment of all HOME funds to DHCD.

While final cost certification and completion reports are required at the end of the development phase and prior to the last draw, progress reports are required quarterly on each project during the development phase. Regular construction inspections will be conducted to verify progress.



The actual amount of HOME assistance must be the minimum amount needed. Based on the HOME investment the project will require a set number of HOME-assisted units. This is based on the proportion of total HOME funds in the project compared to the total development costs. Total development costs must exclude non-HOME eligible cost.

HOME-assisted units have income and value restrictions. HOME-assisted units are limited to 80 percent AMI households who will be using the property as their primary residence.

Homebuyer project can be structured as lease-purchase projects. These projects must be identified as lease-purchase in the application. Lease-purchase projects must convert to a tenant purchased unit (homebuyer unit) within three years. Units failing to meet this requirement will convert to rental unit for the duration of the affordability period. Please see the [Compliance in HOME Rental Projects: Guide for Property Owners](#) and [HOME Rental Compliance Training](#) for unit requirements. Developers considering this option are encouraged to consult with DHCD prior to application submission.

Homebuyer units will automatically convert to HOME rental units if there is no ratified sales contract at nine months after the completion of construction (date of the Certificate of Occupancy). HUD allows no exception to this requirement. This requires that all homebuyer projects have strong sales plans in place. There must be a pipeline of homebuyers and a demonstrated history in successfully completing homebuyer projects.

Housing must be modest (based on property sales price or value). No luxury homes or amenities (based on neighborhood standards) are allowed for assisted units. The sales price can NOT exceed 95 percent of median area purchase price (use HUD 203 (b) limits or local market survey).